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10/542,262	11/25/2005	Jukka Holm	857.0030.U1(US)	3463

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EXAMINER	
TRAN, PAUL P	

ART UNIT	PAPER NUMBER
2618	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/542,262	HOLM ET AL.	
	Examiner	Art Unit	
	PAUL P. TRAN	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 July 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26 and 28-31* is/are pending in the application.

4a) Of the above claim(s) *27,32 and 33* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26 and 28-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 July 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *07/15/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

1.1. Reference characters "NO" and “NO" have both been used to designate the logic test/comparison of module “Time out”. One of the output flows should be labeled with “YES” for the logic of process 100 to work correctly.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification Objections

2. The disclosure is objected to because of the following informalities:

2.1. In page 1 of the specifications, the following acronyms “MPEG”, “SMS” are not defined in the specifications. In the third paragraph of page 7, in line 18, the phrase “if the has not been answered” is not a complete sentence. Appropriate correction is required.

Claim Objections

3. Claim 10 is objected to because of the following informalities:

3.1. In claim 10, term “aubile” should be “audible”.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 3-18, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4.1. Claim 3-18 recites the limitation "a mobile telephone" in Claim 1. There is insufficient antecedent basis for this limitation in the claim. Claim 1 recites an “electronic device”, not a “mobile telephone”. Appropriate correction is required.

4.2. Claim 29, the term “each” in “each comprising a plurality of ...” renders the claim indefinite, since it’s unclear whether the term “each” is associated with “data files” or “musical alert”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> > (b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

5. Claims 1, 7, 10-11, 13-19, 22-24, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis (US Pat.# 4868561, hereinafter “Davis”).

5.1. Regarding claim 1, Davis discloses an electronic device (Fig. 2, ref 10, Col. 2: 42-59), comprising: audio output means for alerting a user by playing a

musical audible alert (Fig. 2, ref 20, Col. 2: 42-59, alert outputs 20 including transducer and/or display); and control means for controlling the audio output means to terminate the musical audible alert, wherein the audio output means is operable to terminate the musical audible alert by introducing a replacement musical sequence (Fig. 2, ref 18, Col. 2: 42-59, alert pattern generator 18 control audio outputs and operable to terminate musical audible alert by reprogramming, i.e. replacing, alert patterns as described in Col. 3: 15-20).

5.2. Regarding claim 7, Davis discloses an electronic device as claimed in claim 1, comprising a memory storing a file for producing the musical audible alert (Fig. 3, ref 40-50, Col. 4: 6-30).

5.3. Regarding claim 10, Davis discloses an electronic device as claimed in claim 1, wherein the replacement sequence is of limited duration and concludes the musical audible alert (Fig. 4, ref 59, Col. 5: 1-7, a timer 59 control the programming interval of the programmable frequency generator to control the duration alert pattern).

5.4. Regarding claim 11, Davis discloses an electronic device as claimed in claim 1, wherein the replacement musical sequence is pre-determined (Col. 5: 13-19, operator uses a list of predetermined alert patterns).

5.5. Regarding claim 13, Davis discloses an electronic device as claimed in claim 1 wherein the audio output means is operable to terminate the musical audible alert by introducing any one of a plurality of pre-determined replacement

musical sequences (Col. 5: 13-19, operator uses a list of predetermined alert patterns, i.e. replacement musical sequence).

5.6. Regarding claim 14, Davis discloses an electronic device as claimed in claim 13, wherein each of the plurality of pre-determined replacement musical sequences is associated with a particular portion of the musical audible alert (Col. 5: 13-19, 39-49, the predetermined alert pattern is programmed via using input device or using the remote paging network).

5.7. Regarding claim 15, Davis discloses an electronic device as claimed in claims 1, wherein the replacement musical sequence is automatically generated (Col. 5: 39-49, the alert pattern is automatically reprogrammed via using remote paging network).

5.8. Regarding claim 16, Davis discloses an electronic device as claimed in claim 15, wherein the generated replacement musical sequence is dependent upon information characterizing the musical qualities of the audible alert (Col. 1: 54-58, replacement alert patterns quickly and easily improve quality of alert signals affected by conflicted signals).

5.9. Regarding claim 17, Davis discloses an electronic device as claimed in claim 1, wherein the replacement musical sequence varies any one or more of: the arrangement of the musical audible alert; the music of the musical audible alert; the tempo of the musical audible alert; and the volume of the musical audible alert (Col. 5: 4-12, the frequency generator 58 generates musical notes in

accordance with frequency and duration information, i.e. tempo, containing in reprogrammable alert pattern memory 57 and the musical notes are supplied through audio amplifier 60, i.e. volume to speaker 61).

5.10. Regarding claim 18, Davis discloses an electronic device as claimed in claim 1, wherein the replacement musical sequence fades out the musical audible alert (Col. 3: 15-20, the new alert pattern replaces the alert pattern in the memory so the audible alert is fade out).

5.11. Regarding claim 19, Davis discloses an electronic device as claimed in claim 1 operable as a mobile telephone (Col. 5: 43-59, the invention as illustrated is operable on cellular telephones, portable radios).

5.12. Regarding claim 22, Davis discloses a memory embodying a data file comprising a replacement sequence to terminate an electronic device musical audible alert (Col. 2: 60-67, the operator is provided a list of alert patterns, i.e. data files, including variety of different tones or combinations of tones or variety of songs, i.e. replacement sequences; Fig. 2, ref 17, Col. 3: 15-20, the system pages or signals pager 13 with special signals to replace alert pattern in memory 17; Fig. 3, ref 42, ref 50, Col. 3: 64-Col. 4: 15, microcontroller 36 acts to compare received signal sequences with sequences in memories 50 and 42 and when a change command signal is detected, the microcontroller will store the new alert pattern data into the appropriate memory).

5.13. Regarding claim 23, Davis discloses a memory embodying a data file as claimed in claim 22, the data file further comprising additional replacement sequences (Col. 2: 60-67, in operation, the operator is provided a list of possible predetermined alert patterns, i.e. data files, including variety of different tones or combinations of tones or variety of songs, i.e. additional replacement sequences).

5.14. Regarding claim 24, Davis discloses a memory embodying a data file as claimed in claim 22, the data file further comprising a musical audible alert for an electronic device (Col. 2: 60-67, the operator is provided a list of alert patterns, i.e. data files, including variety of songs, i.e. musical audible alert; Col. 5: 7-12, generator 58 can play musical notes).

5.15. Regarding claim 30, Davis discloses a method of terminating a musical audible alert in an electronic device comprising the step of: replacing an original musical audible alert with a replacement musical sequence (Fig. 2, ref 18, Col. 2: 42-Col. 3: 20, the system generates an alert pattern to replace the ring tone of the pager).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 2-6, 8-9, 12, 25-26, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis in view of Mizuno et al. (US Pub.# 2002/0046899 A1, hereinafter "Mizuno").

6.1. Regarding claim 2, Davis discloses an electronic device as claimed in claim 1, further comprising a user input, wherein the control means is operable, responsive to the user input, to control the audio output means to terminate the musical audible alert (Col. 4: 6-43, the microcontroller 36 receives change command signal for reprogramming, replacing alert pattern signal by transferring the new pattern from a temporary memory 48 to a non-volatile memory 40, 42, 46, and 50). However, Davis fails to disclose a user input.

Mizuno discloses an electronic device comprising a user input (Fig. 1, ref 8, Page 2: [0028], a computer, i.e. electronic device, including an input device 8 comprising keyboard and mouse).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno's user input interface to Davis' mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

6.2. Regarding claim 3, Davis discloses as in Claim 1 an electronic device as claimed invention above (Fig. 2, ref 10, Col. 2: 42-59); However Davis fails to disclose the audio means comprises a synthesizer.

Mizuno discloses an electronic device wherein the audio means comprises a synthesizer (Page 2: [0027], a computer 100 comprising application for synthesizing musical sound).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno's sound synthesizer to Davis' mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

6.3. Regarding claim 4, Davis and Mizuno disclose an electronic device as claimed in claim 3, wherein the synthesizer processes a data stream representative of the musical audible alert in real time (Mizuno: Page 1: [0004], the ringing melody is created by sequencer software and written in an Standard MIDI file).

6.4. Regarding claim 5, Davis and Mizuno disclose an electronic device as claimed in claim 4, wherein audio output means is arranged to vary the data stream in real time to introduce the replacement musical sequence (Mizuno: Page 1: [0010], tone generator looks at the receiving identification information to identify target tone and select the timbre information to adapt to target tone).

6.5. Regarding claim 6, Davis and Mizuno disclose an electronic device as claimed in claims 3, wherein the synthesizer is polyphonic (Mizuno: Page 1: [0004], ringing melody is created using standard MIDI file that can play in multiple notes, i.e. polyphonic).

6.6. Regarding claim 8, Davis as in claim 7 discloses an electronic device as claimed invention above (Fig. 2, ref 10, Col. 2: 42-59); However, Davis fails to disclose the file comprises a series of conditional branch markers, each marker indicating a time for a conditional branch to a replacement musical sequence.

Mizuno discloses an electronic device wherein the file comprises a series of conditional branch markers, each marker indicating a time for a conditional branch to a replacement musical sequence (Mizuno: Fig. 3(a-b), Page 5: [0058], an undefined program change number or code in memory (slash mark in the Fig. 3(a-b)), represents that the tone generator can replace the missing marks with basic or predetermined tones for that timbre).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno's MIDI file with marker to Davis' mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

6.7. Regarding claim 9, Davis as claim 1 discloses an electronic device with replaceable alert pattern or sequences as claimed invention above (Fig. 1-2, Col. 2: 60-Col. 3: 20). However, Davis fails to disclose the electronic device

further comprising radio transceiver means operable for downloading the replacement sequence.

Mizuno discloses a wireless communication unit further comprising radio transceiver means operable for downloading the replacement sequence (Fig. 6, ref 400, Page 3: [0041]-[0042], the portable terminal transmits a music selection request and receives the music selection via the download to replace the music replacement sequence).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno's transceiver to Davis' mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

6.8. Regarding claim 12, Davis as of Claim 11 discloses an electronic device as claimed invention above (Fig. 2, ref 10, Col. 2: 42-59); However, Davis fails to disclose wherein the replacement musical sequence is stored in a MIDI-track of a MIDI file.

Mizuno discloses an electronic device wherein the replacement musical sequence is stored in a MIDI-track of a MIDI file (Mizuno: Fig. 3(a-b), Page 3:[0042], the piece of music is read out from the database 330 of the server and converted to a replacement by a music selection command).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno's MIDI file storage to

Davis' mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

6.9. Regarding claim 25, due to similarity, Claim 25 is rejected with the same reason as claim 8 above.

6.10. Regarding claim 26, Davis discloses a memory embodying a musical data file, for producing a musical audible alert in an electronic device (Col. 2: 60-67, the operator is provided a list of alert patterns, i.e. data file, for mobile terminal or electronic device; However, Davis fails to disclose the musical data file comprising a plurality of conditional branching markers each of which is associated with a replacement musical sequence.

Mizuno discloses the musical data file comprising a plurality of conditional branching markers each of which is associated with a replacement musical sequence (Mizuno: Fig. 3(a-b), Page 5: [0058], an undefined program change number or code in memory (slash mark in the Fig. 3(a-b)), represents that the tone generator can replace the missing marks with basic or predetermined tones for that timbre).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno's MIDI file with marker to Davis' mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

6.11. Regarding claim 28, Davis discloses a system, for providing replacement sequences for terminating electronic device musical audible alerts (Fig. 1-2, Col. 2: 60-Col. 3: 20), comprising: a memory storing a plurality of data files each of which comprises a replacement musical sequence for terminating an electronic device musical audible alert (Fig. 3, Col. 2: 60-67, a list of predetermined alert patterns, i.e. data files, including variety of different tones or combinations of tones or variety of songs, i.e. replacement musical sequences, stored in memories 40-50); However, Davis fails to disclose a server, for downloading a data file from the memory to the mobile telephone, responsive to a request.

Mizuno discloses a server, for downloading a data file from the memory to the mobile telephone, responsive to a request (Fig. 6-7, ref 400, Page 3: [0040], the portable terminal sends a request to server computer for requesting a music selection, the music selection is downloaded to the portable terminal).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno's downloading music from server to Davis' mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

6.12. Regarding claim 29, Davis discloses a system, for providing replacement sequences for mobile telephone musical audible alerts (Fig. 1-2, Col. 2: 60-Col. 3: 20), comprising: a memory storing a plurality of musical data files for playing a musical alert (Fig. 3, Col. 2: 60-67, a list of predetermined alert patterns, i.e. data files, including variety of different tones or combinations of tones or variety of

songs, i.e. replacement musical sequences, stored in memories 40-50); However, Davis fails to disclose each data file comprising a plurality of conditional branching markers wherein each of the conditional branching markers is associated with a replacement musical sequence for a mobile telephone musical audible alert; and a server, for downloading a data file from the memory to the mobile telephone, responsive to a request.

Mizuno discloses a plurality of conditional branching markers wherein each of the conditional branching markers is associated with a replacement musical sequence for a mobile telephone musical audible alert (Mizuno: Fig. 3(a-b), Page 5: [0058], an undefined program change number or code in memory (slash mark in the Fig. 3(a-b)), represents that the tone generator can replace the missing marks with basic or predetermined tones for that timbre); and a server, for downloading a data file from the memory to the mobile telephone, responsive to a request (Fig. 6-7, ref 400, Page 3: [0040], the portable terminal sends a request to server computer for requesting a music selection, the music selection is downloaded to the portable terminal).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno's downloading music from server to Davis' mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

7. Claims 20, 21, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis in view of Derek Davis et al. (US Pub.# 2002/0052225 A1, hereinafter "Derek").

7.1. Regarding claim 20, Davis discloses a mobile telephone, comprising: audio output means for alerting a user to an incoming call by playing a musical audible alert (Fig. 2, ref 20, Col. 2: 42-59, alert outputs 20 including transducer and/or display); and control means, responsive to the user input, for controlling the audio output means to terminate the musical audible alert, wherein the audio output means is operable to terminate the musical audible alert by introducing a replacement musical sequence (Fig. 3, ref 36, Col. 4: 6-30, pager terminal comprises a controller 36 for responding to key presses such that operator can select tones for programming alert patterns or terminate the musical audible alert. Wherein alert pattern generator, i.e. audio output means, is operable to terminate the audible alert by replacing it with new alert pattern by the controller 36). However, Davis fails to disclose a user input for answering an incoming call.

Derek discloses a user input for answering an incoming call (Fig. 6, ref 740, ref 750, page 8: [0110], user press a key input to pick up the call).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Derek's user input interface to Davis' mobile terminal to improve the selection of a predetermined alert patterns from a program list (Davis: Page 5: 13-19).

7.2. Regarding claim 21, Davis and Derek as of Claim 20 discloses a mobile terminal telephone, further comprising a radio transceiver wherein the control means, responsive to the user input, controls the radio transceiver, after a delay, to accept the incoming telephone call (Fig. 3, ref 300, ref 330, Page 3: [0045], a transceiver 300 with a processing unit 330; Fig. 6, Page 7: [0109], incoming call is put in delay while a playback ringtone message is answering to caller).

7.3. Regarding claim 31, Davis discloses a method of answering an incoming call in a mobile telephone (Fig.), comprising the steps of: detecting that the terminal has an incoming call (Col. 4: 1-5, detecting the incoming call signal); starting a musical audible alert (Col. 4: 1-5, sending musical ring tone to annunciator 54); and terminating the audible alert by introducing a replacement musical sequence (Col. 4: 6-15, the old audible alert pattern is silenced by reprogramming the memory with new alert pattern). However, Davis fails to disclose detecting a user input answering the call.

Derek discloses detecting the user input answering the call (Fig. 6, ref 740, ref 750, page 8: [0110], user press a key input to pick up the call).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Derek's user input interface to Davis' mobile terminal to improve the selection of a predetermined alert patterns from a program list (Davis: Page 5: 13-19).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Jones et al. (U.S. Patent 6337972 B1) teaches melodic alerts for communication device.

- Lin et al. (U.S. Patent 6366791 B1) teaches a system and method for providing a musical ringing tone on mobile stations.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL P. TRAN whose telephone number is 571-270-1944. The examiner can normally be reached on Monday to Thursday 8:00AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAY MAUNG can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PAUL P TRAN/
Examiner, Art Unit 2618

/Nay A. Maung/
Supervisory Patent Examiner, Art Unit 2618

January 22, 2009